UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09/760,362	01/12/2001	James C. Chen	25886-0062	1582

7590 03/27/2002

Stephanie Seidman
Heller Ehrman White & McAuliffe, LLP
7th Floor
4350 La Jolla Village Drive
San Diego, CA 92122-1246

EXAMINER
HUYNH, PHUONG N

ART UNIT	PAPER NUMBER
1644	

DATE MAILED: 03/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/760,362	CHEN, JAMES C.	
	Examiner	Art Unit	
	" Neon" Phuong Huynh	1644	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *One* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133)
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 November 2001*.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-37* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-37* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948).

3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

5)☒ Other: *Fax cover sheet*

Application/Control Number: 09/760,362
Art Unit: 1644

DETAILED ACTION

1. The location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 1644, Group 1640, Technology Center 1600.

2. **Please Note**: In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-308-4315. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Paula Hutzell, Ph.D., Supervisory Patent Examiner at Paula.Hutzell@uspto.gov or 703-308-4310. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.

3. Claims 1-37 are pending.

Election/Restrictions

4. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-5, 11-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **diabetic retinopathy** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **Ligand wherein the ligand is the ED-B domain of fibronectin**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

II. Claims 1-5, 11-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **diabetic retinopathy** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a [illegible] wherein the ligand is the **antibody to the ED-B domain of**

[illegible]

III. Claims 1-5, 11-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **diabetic retinopathy** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **Ligand wherein the ligand is VEGF**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

IV. Claims 1-5, 11-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **diabetic retinopathy** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **Ligand wherein the ligand is the VEGF receptor**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

V. Claims 1-5, 11-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **diabetic retinopathy** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **Ligand wherein the ligand is the αvβ3 integrin receptor**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

VI. Claims 1-5, 11-12, 14-15, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **diabetic retinopathy** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **receptor**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

VII. Claims 1-5, 11-12, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **diabetic retinopathy** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **antigen**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

Application Control Number: 09/760,362

Art Unit: 1644

VIII. Claims 1-5, 11-12, 16-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **diabetic retinopathy** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **antibody**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

IX. Claims 1-4, 6, 11-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **macular degeneration** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **Ligand wherein the ligand is the ED-B domain of fibronectin**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

X. Claims 1-4, 6, 11-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **macular degeneration** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **Ligand wherein the ligand is antibody to ED-B domain of fibronectin**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XI. Claims 1-4, 6, 11-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **macular degeneration** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **Ligand wherein the ligand is VEGF**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XII. Claims 1-4, 6, 11-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **macular degeneration** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **Ligand wherein the ligand is VEGF receptor**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XIII. Claims 1-4, 6, 11-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **macular degeneration** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **Ligand wherein the ligand is the αvβ3 integrin receptor**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XIV. Claims 1-4, 6, 11-12, 14-15, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **macular degeneration** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **receptor**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XV. Claims 1-4, 6, 11-12, 16-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **macular degeneration** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **antigen**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XVI. Claims 1-4, 6, 11-12, 16-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **macular degeneration** comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **antibody**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XVII. Claims 1-4, 7-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **tumor** of the eye comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **Ligand wherein the ligand is the ED-B domain of fibronectin**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XVIII. Claims 1-4, 7-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **tumor** of the eye comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific Ligand wherein **the ligand is the antibody to ED-B domain of fibronectin**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XIX. Claims 1-4, 7-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **tumor** of the eye comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific Ligand wherein **the ligand is VEGF**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XX. Claims 1-4, 7-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **tumor** of the eye comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific Ligand wherein **VEGF receptor**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XXI. Claims 1-4, 7-13, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **tumor** of the eye comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific Ligand wherein **the ligand is the $\alpha v\beta 3$ integrin receptor**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XXII. Claims 1-4, 7-12, 14-15, 18-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **tumor** of the eye comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **receptor**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XXIII. Claims 1-4, 7-12, 16-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **tumor** of the eye comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **antigen**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XXIV. Claims 1-4, 7-12, 16-24 and 36, drawn to a method to treat neovasucular disease of the eye wherein the disease is **tumor** of the eye comprising administering a targeted photosensitizing compound wherein the target compound is bound to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **antibody**, classified in Class 424, subclass 193.1; Class 424, subclass 9.51.

XXV. Claims 25-27, drawn to a method to treat neovascular disease of the eye comprising a first targeted photosensitizing compound which selectively binds to a first targeted tissue wherein the first targeting tissue is a specific **Ligand wherein the ligand is the ED-B domain of fibronectin**, and administering a second targeted photosensitizing compound which selectively binds to a second targeted tissue wherein the second targeted tissue is a specific tumor antigen, classified in Class 424, subclass 9.51; Class 424, subclass 9.34.

XXVI. Claims 25-27, drawn to a method to treat **neovascular disease of the eye** comprising a first targeted photosensitizing compound which selectively binds to a first targeted tissue wherein the first targeting tissue is a specific **Ligand wherein the ligand is antibody to the ED-B domain of fibronectin**, and administering a second targeted photosensitizing compound which selectively binds to a second targeted tissue wherein the second targeted tissue is a specific tumor antigen, classified in Class 424, subclass 9.51; Class 424, subclass 9.34.

XXVII. Claims 25-27, drawn to a method to treat **neovascular disease of the eye** comprising a first targeted photosensitizing compound which selectively binds to a first targeted tissue wherein the first targeting tissue is a specific **Ligand wherein the ligand is VEGF**, and administering a second targeted photosensitizing compound which selectively binds to a second targeted tissue wherein the second targeted tissue is a specific tumor antigen, classified in Class 424, subclass 9.51; Class 424, subclass 9.34.

XXVIII. Claims 25-27, drawn to a method to treat **neovascular disease of the eye** comprising a first targeted photosensitizing compound which selectively binds to a first targeted tissue wherein the first targeting tissue is a specific **Ligand wherein the ligand is VEGF receptor**, and administering a second targeted photosensitizing compound which selectively binds to a second targeted tissue wherein the second targeted tissue is a specific tumor antigen, classified in Class 424, subclass 9.51; Class 424, subclass 9.34.

XXIX. Claims 25-27, drawn to a method to treat **neovascular disease of the eye** comprising a first targeted photosensitizing compound which selectively binds to a first targeted tissue wherein the first targeting tissue is a specific **Ligand wherein the αvβ3 integrin receptor**, and administering a second targeted photosensitizing compound which selectively binds to a second targeted tissue wherein the second targeted tissue is a specific tumor antigen, classified in Class 424, subclass 9.51; Class 424, subclass 9.34.

XXX. Claims 25-27, drawn to a method to treat **neovascular disease of the eye** comprising a first targeted photosensitizing compound which selectively binds to a first targeted tissue wherein the first targeting tissue is a specific **receptor** and administering a second targeted photosensitizing compound which selectively binds to a second targeted tissue wherein the second targeted tissue is a specific tumor antigen, classified in Class 424, subclass 9.51; Class 424, subclass 9.34.

XXXI. Claims 25-27, drawn to a method to treat **neovascular disease of the eye** comprising a first targeted photosensitizing compound which selectively binds to a first targeted tissue wherein the first targeting tissue is a specific **antigen** and administering a second targeted photosensitizing compound which selectively binds to a second targeted tissue wherein the second targeted tissue is a specific tumor antigen, classified in Class 424, subclass 9.51; Class 424, subclass 9.34.

XXXII. Claims 25-27, drawn to a method to treat **neovascular disease of the eye** comprising a first targeted photosensitizing compound which selectively binds to a first targeted tissue wherein the first targeting tissue is a specific **antibody** and administering a second targeted photosensitizing compound which selectively binds to a second targeted tissue wherein the second targeted tissue is a specific tumor antigen, classified in Class 424, subclass 9.51; Class 424, subclass 9.34.

XXXIII. Claims 28-31 and 37, drawn to a kit to treat neovascular disease of the eye, comprising a specific targeted photosensitizing compound, instructions, wherein the targeted compound binds to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **ligand wherein the ligand is the ED-B domain of fibronectin**, classified in Class 435, subclass 810, Class 424, subclass 193.1; Class 424, subclass 9.51.

XXXIV. Claims 28-31 and 37, drawn to a kit to treat neovascular disease of the eye, comprising a specific targeted photosensitizing compound, instructions, wherein the targeted compound binds to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **ligand wherein the ligand is antibody to the ED-B domain of fibronectin**, classified in Class 435, subclass 810, Class 424, subclass 193.1; Class 424, subclass 9.51.

XXXV. Claims 28-31 and 37, drawn to a kit to treat neovascular disease of the eye, comprising a specific targeted photosensitizing compound, instructions, wherein the targeted compound binds to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **VEGF**, classified in Class 435, subclass 810, Class 424, subclass 193.1; Class 424, subclass 9.51.

XXXVI. Claims 28-31 and 37, drawn to a kit to treat neovascular disease of the eye, comprising a specific targeted photosensitizing compound, instructions, wherein the targeted compound binds to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **ligand wherein the ligand is the VEGF receptor**, classified in Class 435, subclass 810, Class 424, subclass 193.1; Class 424, subclass 9.51.

XXXVII. Claims 28-31 and 37, drawn to a kit to treat neovascular disease of the eye, comprising a specific targeted photosensitizing compound, instructions, wherein the targeted compound binds to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **ligand wherein the ligand is the $\alpha v\beta 3$ integrin receptor**, classified in Class 435, subclass 810, Class 424, subclass 193.1; Class 424, subclass 9.51.

XXXVIII. Claims 28-30, 32-33 and 37, drawn to a kit to treat neovascular disease of the eye, comprising a specific targeted photosensitizing compound, instructions, wherein the targeted compound binds to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **receptor**, classified in Class 435, subclass 810, Class 424, subclass 193.1; Class 424, subclass 9.51.

IXL. Claims 28-30, 34-35 and 37, drawn to a kit to treat neovascular disease of the eye, comprising a specific targeted photosensitizing compound, instructions, wherein the targeted compound binds to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **antigen**, classified in Class 435, subclass 810, Class 424, subclass 193.1; Class 424, subclass 9.51.

XL. Claims 28-30, 34-35 and 37, drawn to a kit to treat neovascular disease of the eye, comprising a specific targeted photosensitizing compound, instructions, wherein the targeted compound binds to a specific first component of a bindable pair and wherein the second component of the bindable pair is a specific **antibody**, classified in Class 435, subclass 810, Class 424, subclass 193.1; Class 424, subclass 9.51.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Groups (XXXIII-XL) and Groups (I-XXXII) are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the products as claimed can be used in materially different process such as making antibody or screening assays. Therefore, they are patentably distinct.

Inventions of Groups I-XXXII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the method of treating different diseases which differ with respect to their etiology using distinct products that differ with respect to their structures and target specificity. Therefore, they are patentably distinct.

XXXIII-XL are unrelated. Inventions are unrelated if it can be

operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the products as claimed differ with their respect to their structure, target specificity and biophysiochemistry. Therefore, they are patentably distinct.

5. Because these inventions are distinct for the reasons given above and the searches are not co-extensive, restriction for examination purposes as indicated is proper.

6. Irrespective of whichever group the applicant may elect, the applicant is further required under 35 U.S.C. 121 to elect:

A) If Group I, II, III, IV, V, IX, X, XI, XII, XIII, XVII, XVIII, XIX, XX, XXI, XXV, XXVI, XXVII, XXVIII or XXIX is elected, the Applicant is required to elect a specific method to treat neovascular disease comprising (1) **a specific photosensitizing compound** such as the ones on page 10 of the specification and (2) **a specific first component** of a bindable pair. These method of treating different diseases using distinct targeted photosensitizing compound comprising different targeting domain such as the ones recited in claim 13 and photosensitizing compound such as the ones disclosed on page 10 of the specification are patentably distinct because the photosensitizing compound differ with respect their structures, wave length and mode of action while the component of the bindable pairs differ with respect to their binding specificity, structure and physiochemical properties. Therefore, they are patentably distinct.

B) If Group VI, XIV, XXII, or XXX is elected, the Applicant is required to elect a specific method to treat neovascular disease comprising (1) **a specific photosensitizing compound** such as the ones on page 10 of the specification, (2) **a specific first component** of a bindable pair and (3) **a specific receptor** such as the ones recited in claim 13. These method of treating different diseases using distinct targeted photosensitizing compound comprising different targeting domain such as the ones recited in claim 1, different photosensitizing compounds such as the ones disclosed on page 10 of the specification and different receptors are patentably distinct because the photosensitizing compound differ with respect their structures, wave length and mode of action while the component of the bindable pairs such as the receptors differ with respect to their binding specificity, structure and physiochemical properties. Therefore, they are patentably distinct.

C) If Group VII, XV, XXIII or XXXI is elected, the Applicant is required to elect a specific method to treat neovascular disease comprising (1) **a specific photosensitizing compound** such as the ones on page 10 of the specification, (2) **a specific first component** of a bindable pair and (3) **a specific antigen** such as the ones recited in claim 13. These method of treating different diseases using distinct targeted photosensitizing compound comprising different targeting domain such as the ones recited in claim 1, different photosensitizing compounds such as the ones disclosed on page 10 of the specification and different receptors are patentably distinct because the photosensitizing compound differ with respect their structures, wave length and mode of action while the component of the bindable pairs such as the antigens differ with respect to their binding structure and physiochemical properties. Therefore, they are patentably distinct.

D) If Group VIII, XVI, XXIV or XXXII is elected, the Applicant is required to elect a specific method to treat neovascular disease comprising (1) **a specific photosensitizing compound** such as the ones on page 10 of the specification, (2) **a specific first component** of a bindable pair and (3) a specific **antibody** such as the ones recited in claim 13. These method of treating different diseases using distinct targeted photosensitizing compound comprising different targeting domain such as the ones recited in claim 1, different photosensitizing compounds such as the ones disclosed on page 10 of the specification and different receptors are patentably distinct because the photosensitizing compound differ with respect their structures, wave length and mode of action while the component of the bindable pairs such as the antibodies differ with respect to their binding specificity, structure and physiochemical properties. Therefore, they are patentably distinct.

E) If Group XXXIII, XXXIV, XXXV, XXXVI or XXXVII is elected, the Applicant is required to elect a kit comprising (1) **a specific photosensitizing compound** such as the ones on page 10 of the specification, (2) **a specific first component** of a bindable pair and (3) **a specific second component** of the bindable pair such as the ones recited in claim 13. These kits comprising a targeted photosensitizing compound comprising different targeting domain such as the ones the ones disclosed on page 10 and the ones recited in claim 13 are patentably distinct because the targeting domains comprising different ligands that differ with respect to their target specificity,

[illegible] compound differ with

F) If Group XXXVIII is elected, the Applicant is required to elect a kit to treat neovascular disease of the eye comprising (1) **a specific photosensitizing compound** such as the ones on page 10 of the specification, (2) **a specific first component** of a bindable pair and (3) **a specific second component** of the bindable pair such as the ones recited in claim 13 and (4) **a specific receptor**. These kits comprising a targeted photosensitizing compound comprising different targeting domain such as the ones the ones disclosed on page 10 and the ones recited in claim 13 are patentably distinct because the targeting domains comprising different receptors that differ with respect to their target specificity, structures, and physiochemical properties while the photosensitizing compound differ with respect their structures, wave length and mode of action. Therefore, they are patentably distinct.

G) If Group IXL is elected, the Applicant is required to elect a kit comprising (1) **a specific photosensitizing compound** such as the ones on page 10 of the specification, (2) **a specific first component** of a bindable pair and (3) **a specific second component** of the bindable pair such as the ones recited in claim 13 and (4) **a specific antigen**. These kits comprising a targeted photosensitizing compound comprising different targeting domain such as the ones the ones disclosed on page 10 and the ones recited in claim 13 are patentably distinct because the targeting domains comprising different antigens that differ with respect to their target specificity, structures, and physiochemical properties while the photosensitizing compound differ with respect their structures, wave length and mode of action. Therefore, they are patentably distinct.

H) If Group XL is elected, the Applicant is required to elect a kit comprising (1) **a specific photosensitizing compound** such as the ones on page 10 of the specification, (2) **a specific first component** of a bindable pair and (3) **a specific second component** of the bindable pair such as the ones recited in claim 13 and (4) **a specific antibody**. These kits comprising a targeted photosensitizing compound comprising different targeting domain such as the ones the ones disclosed on page 10 and the ones recited in claim 13 are patentably distinct because the targeting domains comprising different antibodies that differ with respect to their target specificity, structures, and physiochemical properties while the photosensitizing compound differ with respect their structures, wave length and mode of action. Therefore, they are patentably distinct.

7. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 25 and 28 are generic.

8. Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

9. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

10. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

11. Due to the complexity of the claimed invention an oral restriction was not made.

12. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuong Huynh "NEON" whose telephone number is (703) 308-4844. The examiner can normally be reached Monday through Friday from 9:00 am to 5:30 p.m. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to

14. Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 305-3014.

Phuong N. Huynh, Ph.D.
Patent Examiner
Technology Center 1600
March 25, 2002

SUPERVISORY PATENT EXAMINER
GROUP 1600
1640